

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	
Petition for Declaratory Ruling of All About the)	
Message, LLC)	

COMMENTS OF THE NATIONAL COUNCIL OF HIGHER EDUCATION RESOURCES TO THE PETITION FOR DECLARATORY RULING FILED BY ALL ABOUT THE MESSAGE, LLC

The National Council of Higher Education Resources (“NCHER”) is responding to the Public Notice issued by the Federal Communications Commission (the “Commission”) on April 18, 2017 asking for comments to the Petition for Declaratory Ruling filed by All About the Message, LLC (the “Petition”). NCHER is a national, nonprofit trade association representing higher education service agencies that administer education programs that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. Our membership includes organizations under contract with the U.S. Department of Education (the “Department”) to service and recover outstanding loans made under the William D. Ford Federal Direct Loan Program and organizations that service and recover outstanding loans made under the Federal Family Education Loan Program and private education loan programs.

In the Petition, All About the Message, LLC requests the Commission declare that the delivery of a voice message directly to a voicemail box does not constitute a “call” that is subject to the prohibitions on the use of an automatic telephone dialing system or an artificial or prerecorded voice that are set forth in the Telephone Consumer Protection Act of 1991 (“TCPA”) at 47 U.S.C. § 227(b)(1)(A)(iii), and the Commission’s rules implementing those provisions at 47 C.F.R. § 64.1200(a)(1)(iii). According to the Petition, the technology at issue bypasses the wireless telephone subscriber, creating a direct communication with the voicemail system of the carrier telephone company to deliver a voicemail message without a charge to the subscriber. The subscriber can then either retrieve the message at a time of the subscriber’s choosing, or delete it.

While NCHER is not familiar with this technology, we support and encourage the development of innovative methods of communication. As summarized below, and as we have brought to the Commission’s attention a number of times, communication is critically important in the context of the servicing and collection of student loans, ensuring that borrowers do not unintentionally and unnecessarily suffer the consequences of delinquency and default. As more and more student loan borrowers drop their landline telephones, it is essential that our members are able to reach borrowers on their mobile devices. Unfortunately, the TCPA and rules and regulations issued thereunder have proven to be a barrier to successful communication.

For loans made under the federal student loan programs, over the last 10 years, Congress and the Department have created a number of attractive borrower benefits such as multiple repayment plans and the loan rehabilitation program. These initiatives are designed to address individual circumstances

and help borrowers who are struggling to meet their payment obligations. However, to take advantage of these programs, borrowers need to know about their availability. Unfortunately, too many borrowers do not read letters or even emails and are unaware of the help that is available.

For example, borrowers who return to school, are unemployed, or are otherwise experiencing a financial hardship may be eligible to defer repayment on their federal student loans. Once in repayment, borrowers have a large number of potential options to help manage their student loan debt. They can make fixed payments based on a 10-year repayment period, fixed payments based on a 10-to 30-year repayment period, graduated payments that increase over time, or payments based on their current income. While eligibility requirements differ for each income-driven repayment plan, borrowers' monthly payments can be as low as zero and they can have their loan balances that remain after a period (varying from 10 to 25 years) forgiven. Unfortunately, many borrowers fall into delinquency without accessing these complex options. The Department has made clear that, when borrowers of federally-owned loans fall into delinquency, the servicers under contract with the Department must proactively reach out to make them aware of the availability of these options and to help them access the repayment plan that best suits their needs.

If a borrower, nonetheless, defaults on a federal student loan, the loan rehabilitation program allows him or her to "rehabilitate" that loan by making nine timely and voluntary "reasonable and affordable" monthly payments over a 10-month period, where payments can be as low as \$5 per month. Successful rehabilitation removes a loan from default status and erases the record of default from the borrower's credit report. Individuals who rehabilitate their loans also regain all of their rights under the federal financial assistance programs, including eligibility for new loans and grants if they go back to school. However, experience has proven that student loan collectors and guaranty agencies must be able to reach out to struggling borrowers to explain the benefits of the loan rehabilitation program, to work with these borrowers to make sure they are aware of payment deadlines and remain on-track to rehabilitate their loans, and, once the loans have been rehabilitated, to explain the repayment options that are available in order for the borrowers to successfully avail themselves of the plan that best suits their individual circumstances.

Because it is essential for NCHER members to be able to communicate with student loan borrowers, we encourage the Commission to give favorable consideration to new technologies that facilitate communication, such as the technology described in the Petition.

If you have any questions or need further information, please feel free to contact me at 202-822-2106 or jbergeron@ncher.us.

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